IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 390 OF 1993

1. Bhaubali Shantilal Dobhada
and ors. .. Petitioners

Vs.

1. The State of Maharashtra and ors. .. Respondents

Ms. Suhasini Mutalik for petitioners.
Mr. A.H. Palekar, AGP for respondent no.1.
Mr. Dhananjay Loankar for respondent no.9.
Mr. V.V. Savaji h/f Mr. P.B. Shah for respondent no.10.

CORAM: B.H. MARLAPALLE, J.

Date : June 13, 2006.

P.C.:

1. Heard Ms. Mutalik for petitioners.

2. This petition has been, shockingly, waiting for admission for the last 13 years.

3. Regular Civil Suit No.411 of 1981 was decreed ex parte on 10/12/1985 and, therefore, two separate applications for restoration and for setting aside the order of abatement came to be filed and listed as

Misc. Application No.559 of 1986 and Misc. Application No.18 of 1989. Both these applications came to be rejected by the learned Joint Civil Judge, Senior Division at Baramati vide his order dated 10/12/1992.

4. The trial court noted that the application for restoration of the suit decided ex parte was beyond time by 199 days and the reasons for delay were not properly explained. The defendants had engaged an Advocate who was also examined before the trial court in support of the application for restoration. He claimed before the trial court that the defendants were negligent in contacting him. The defendants were never present before the trial court and the applicant no.1 was an educated businessman who was expected to remain present before the trial court to take appropriate steps through the Advocate engaged. The reasoning given by the trial court in the impugned order dated 10/12/1992 cannot be said to be perverse or grossly illegal so as to cause interference in this petition under Article 227 of the Constitution. Even otherwise, the suit was decreed ex parte on 10/12/1985

i.e. about 21 years ago and the farad shows that though the petition was ready in all respects for admission on 27/7/1996 no steps were taken for getting the petition listed for admission during the last about 10 years.

5. Hence the petition is rejected summarily.

(B.H. Marlapalle,J.)